

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
Implementation of Section 621(a)(1) of)	
the Cable Communications Policy Act of 1984)	MB Docket No. 05-
311		
as amended by the Cable Television Consumer)	
Protection and Competition Act of 1992)	

COMMENTS OF City of Fort Lauderdale, Florida

These Comments are filed by City of Fort Lauderdale in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NATOA, the City of Fort Lauderdale believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

Cable Franchising in Our Community

Community Information

Fort Lauderdale, FL is a city with a population of 187,450. Our franchised cable provider is the Comcast Corporation. Our community has negotiated cable franchises since the 1980's.

Our Current Franchise

Our current franchise began on January 3, 2002 and expires on January 1, 2012. Under the statutory timeline laid out in the Federal Cable Act, the cable operator has a 6-month window beginning 36 months before the expiration of the franchise in which to request a renewal under the Federal Act. As a result, at this time we are not currently negotiating a franchise renewal with the incumbent provider.

Franchise fees from the operator are paid to the State of Florida in accordance with the Communication Services Tax requirements. The proportional share of these fees is then provided to the City from the State of Florida.

We require the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system. We currently have 1 (one) channel (or capacity) devoted to public access; 1 (one) channel (or capacity) devoted to educational access; and 1 channel (or capacity) devoted to government access.

Our franchise contains the following institutional network ("I-Net") requirements:

Comcast has granted the City 4 (four) strands of a fiber network connecting over 30 City facilities. Comcast was responsible for the construction of the I-Net and is wholly responsible to maintain that network between demarcation points. We use the I-Net to transfer voice, data, and video between and among City facilities. The I-Net is the City's main communication network and is used to process applications, provide remote video training, and telephone interconnect activity.

Our franchise contains a number of customer service obligations such as calls answered within 30 seconds, out-of-service repairs completed within 24 hours, billing recovery for out of service, special escalation contacts, and other items that ensure that minimum customer service standards are met. These standards are codified within a City Ordinance.

Our franchise requires that the cable operator currently provide service to every area of the City.

In order to ensure that our residents have access to current telecommunications technologies, our franchise required that the operator perform an over-build in order to deliver such services as high-speed internet access and video on demand to all subscribers.

Our franchise contains a "non-discriminatory" provision which states that any other franchise "shall not contain terms or conditions more favorable or less burdensome than those applicable to any existing cable operator(s) in the Franchise Area

Our franchise contains the following insurance and bonding requirements: Worker's compensation within statutory limits and employer's liability insurance with limits of not less than Five Hundred Thousand Dollars (\$500,000); Commercial General Liability with limits not less than Two Million Dollars (\$2,000,000) per occurrence Combined Single Limit and Five Million Dollars (\$5,000,000) in the aggregate; commercial automobile liability coverage of all owned, non-owned, and

hired vehicles for limits of no less than Two Million Dollars (\$2,000,000) per occurrence Combined Single Limit.

The cable franchise grants the cable operator access to the public rights of way and compatible easements for the purpose of providing cable television service. Apart from the franchise, the cable provider is required to obtain a permit from the appropriate municipal office as well before it may access the public rights of way.

The Franchising Process

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

Our current franchise provides that changes in law which affect the rights or responsibilities of either party under this franchise agreement will be treated as follows: any Cable Act change affecting the franchise shall be available to the grantee (i.e., Comcast) notwithstanding any contrary provision of the franchise.

Competitive Cable Systems

Our community

- Has actively sought out competitive providers.
- Granted a competitive franchise to RCN Telecom Services, Inc., a cable overbuilder, in 1999 and that provider is not providing service in my community today. Although the franchise was granted, RCN never provided service to Fort Lauderdale and the City revoked the franchise.
- Has not denied any provider the opportunity to serve in our community.
- Does have mechanisms in place to offer the same or a comparable franchise to a competitor upon request.

Conclusions

The local cable franchising process functions well in Fort Lauderdale. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The City of Fort Lauderdale, Florida therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

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